

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

EVERETT EUGENE MILLER,

Defendant.

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No. 3:20-CR-58-KAC-HBG

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on September 14, 2021, for a scheduled pretrial conference and telephonic motion hearing on Defendant's Motion to Continue Trial [Doc. 76], filed on September 2, 2021. Assistant United States Attorneys Matthew T. Morris and Jennifer Kolman appeared by telephone on behalf of the Government. Assistant Federal Defender Jonathan A. Moffatt appeared by telephone, representing Defendant Miller, who was excused from the hearing.

In his motion, Defendant asks the Court to continue the September 21, 2021 trial date in this case, to give time for additional trial preparations. Defendant states he intends to file a motion to exclude the Government's proposed expert witness. He requests a hearing on this motion. Also, the motion relates that defense counsel needs more time to confer with Defendant, who is detained in the Laurel County Correctional Center. Finally, Defendant states that a trial continuance will give time for the parties to explore plea negotiations. The motion states that Defendant understands

all the time until the new trial date is excludable. The motion also relates that the Government does not object to a trial continuance.

In the September 14 hearing, Mr. Moffatt agreed that Defendant waives his speedy trial rights in relation to the motion. AUSA Morris confirmed that the Government does not oppose the requested continuance. The parties agreed on a new trial date of November 30, 2021.

The Court finds Defendant's motion to continue the trial date is unopposed by the Government and well-taken. The Court also finds that the ends of justice served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Court finds that a continuance is necessary to prepare this case for trial. Defendant needs time to file and litigate a motion to exclude the Government's expert. Additionally, defense counsel needs time to meet with Defendant and to complete his trial preparations. The Court finds that pretrial preparations cannot be concluded by September 21, 2021, or in less than two and one-half months. Thus, the Court concludes that without a continuance, defense counsel would not have the reasonable time necessary to prepare for trial, even proceeding with due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

Defendant Miller's motion to continue the trial is **GRANTED**. The trial of this case is reset to **November 30, 2021**. The Court finds that all the time between the filing of the motion on September 2, 2021, and the new trial date of November 30, 2021, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. *See* 18 U.S.C. § 3161(h)(1)(D) & -(7)(A)-(B). The Court also sets a new schedule in this case, which is stated in detail below.

Accordingly, it is **ORDERED** as follows:

- (1) Defendant's Motion to Continue Trial [**Doc. 76**] is **GRANTED**;

- (2) The trial of this matter is reset to commence on **November 30, 2021, at 9:00 a.m.**, before the Honorable Katherine A. Crytzer, United States District Judge;
- (3) All time between the filing of the motion on **September 2, 2021**, and the new trial date of **November 30, 2021**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The new deadline for filing a plea agreement in the record and providing reciprocal discovery is **October 29, 2021**;
- (5) The parties shall file any motions challenging experts, i.e., *Daubert* motions, on or before **October 29, 2021**. Responses to *Daubert* motions are due by **November 10, 2021**;
- (6) The deadline for filing motions *in limine* is **November 15, 2021**;
- (7) The parties are to appear before the undersigned for a final pretrial conference on **November 12, 2021, at 1:30 p.m.** The pretrial conference will also be a motion hearing on the *Daubert* motions, if any are filed; and
- (8) Requests for special jury instructions with appropriate citations to authority pursuant to Local Rule 7.4. shall be filed on or before **November 19, 2021**;

IT IS SO ORDERED.

ENTER:


United States Magistrate Judge